

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Competitive Product Prices  
Global Reseller Expedited Package Contracts 1  
(MC2010-21)  
Negotiated Services Agreement

Docket No. CP2012-14

ORDER APPROVING ADDITIONAL  
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACT 1  
NEGOTIATED SERVICE AGREEMENT

(Issued January 27, 2012)

I. INTRODUCTION

The Postal Service seeks to include a Global Reseller Expedited Package (GREP) contract (Agreement) within the GREP Contracts 1 product established in a previous case.<sup>1</sup> For the reasons discussed below, the Commission approves the request.

---

<sup>1</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Service Agreement and Application For Non-Public Treatment of Materials Filed Under Seal, January 12, 2012 (Notice). The Notice was filed pursuant to 39 CFR 3015.5.

## II. BACKGROUND

*Product information.* The GREP Contracts 1 product encompasses agreements with resellers who market Express Mail International (EMI) and/or Priority Mail International (PMI) at discounted prices to their customers, particularly small- and medium-size businesses. Notice at 4.

Governors' Decision No. 10-1 authorizes prices and classifications not of general applicability for GREP agreements.<sup>2</sup> GREP Contracts 1 (Docket Nos. MC2010-21 and CP2010-36) was added to the competitive product list by operation of Order No. 445. Order No. 445 also established the agreement in Docket No. CP2010-36 as the baseline for comparison of potentially functionally equivalent agreements under the GREP Contracts 1 grouping.<sup>3</sup> In Docket No. CP2011-65, pursuant to Order No. 445, the Postal Service requested, and the Commission approved, the inclusion within GREP Contracts 1 of a renewal of the Docket No. CP2010-36 agreement.<sup>4</sup>

*The instant Agreement.* On January 12, 2012, the Postal Service informed the Commission that it: (1) was entering into a renewal of the Docket No. CP2011-65 agreement; and (2) wanted this renewal included within the GREP Contracts 1 product on grounds of functional equivalency with the baseline agreement. It also sought, in a separate filing, a brief extension of the Docket No. CP2011-65 agreement pending regulatory disposition of the instant Agreement to ensure continuity.<sup>5</sup> In Order No. 1138, the Commission provided notice of the Postal Service's filing, identified the

---

<sup>2</sup> The referenced Decision appears as Attachment 3 to the Notice. It was originally filed in Docket No. CP2010-36.

<sup>3</sup> See Docket Nos. MC2010-21 and CP2010-36, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010 (Order No. 445).

<sup>4</sup> See Docket No. CP2011-65, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, June 30, 2011 (Order No. 755).

<sup>5</sup> United States Postal Service Motion for Extension of Competitive Rates under Negotiated Service Agreement, January 12, 2012 (Motion for Extension). In Order No. 1144, the Commission granted the extension, authorizing the existing agreement to continue in effect until the effective date of the instant Agreement or January 27, 2012, whichever occurs first. Docket No. CP2011-65, Order No. 1144, Order Granting Motion for Extension, January 19, 2012.

supporting public and non-public material, appointed a Public Representative, and provided interested persons with an opportunity to comment.<sup>6</sup>

### III. THE POSTAL SERVICE'S POSITION

The Postal Service characterizes the instant Agreement as a renewal of the Docket No. CP2011-65 agreement. Notice at 1. It reviews the reasons it believes the instant Agreement fits within the Mail Classification Schedule language for GREP Contracts 1. *Id.* at 3. It also addresses functional equivalency, including discussion of the similarities and differences between the instant Agreement and the baseline agreement. The chief similarities are the cost and market considerations. *Id.*

The differences from existing articles are:

- Article 3, a revised definition of Qualifying Mail, which excludes EMI and PMI Flat-Rate items;<sup>7</sup>
- Article 5, a slightly revised summary of the Postal Service's obligations to seek non-public treatment of certain material;
- Article 6, paragraph (1), clarification of the Reseller's right to offer all or a portion of the discounts represented in Annex 1 and Annex 2;
- Article 8, the negotiated minimum revenue commitment and a revision concerning periodic review of the Reseller's progress toward achieving the annualized minimum commitment;
- Article 11, the term of the agreement and a conforming revision concerning termination for consistency with other articles;
- Article 14, a revision relating to the scope of the instant Agreement and obligations under the Docket No. CP2011-65 agreement;

---

<sup>6</sup> Notice and Order Concerning an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, January 17, 2012 (Order No. 1138). See 77 FR 3288 (January 23, 2012).

<sup>7</sup> The Docket No. CP2011-65 agreement also excludes EMI and PMI Flat-Rate items.

- Article 16, a reference to two ACR dockets in which the Postal Service may file confidential information; and
- Article 21, minor changes regarding assignment.

*Id.* at 5-6.

Two new articles address the Postal Service's right to solicit sales from the reseller's customers (Article 31) and intellectual property, co-branding, and licensing (Article 32). *Id.* at 6. In addition, annexes 1 and 2 include 17, rather than 9, rate groups. *Id.*

The Postal Service asserts that its filing demonstrates that the instant Agreement complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GREP contract. *Id.* It does not regard any differences as affecting either the fundamental service the Postal Service is offering or the fundamental structure of the agreements. *Id.* Accordingly, it contends that nothing detracts from the conclusion that the instant Agreement is "functionally equivalent in all pertinent respects" to the contract that is the subject of Docket No. CP2010-36. *Id.* It therefore requests that the instant Agreement be included within the GREP Contracts 1 product. *Id.*

#### IV. COMMENTS

The Commission received comments from the Public Representative addressing functional equivalence and consistency with 39 U.S.C. 3663.<sup>8</sup> With respect to functional equivalence, the Public Representative notes that the Postal Service considers the instant Agreement substantially similar to the baseline agreement, but acknowledges some differences. PR Comments at 3. His opinion is that these differences, with one exception, appear to have been incorporated in last year's Docket No. CP2011-65

---

<sup>8</sup> Public Representative Comments on Postal Service Notice of Filing an Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, January 24, 2012 (PR Comments). The Commission grants the accompanying Motion of Public Representative for Late Acceptance of Comments, January 24, 2012. No other comments were filed.

agreement. *Id.* The exception is Article 32, which addresses intellectual property, co-branding, and licensing. The Public Representative agrees with the Postal Service's assessment that the instant Agreement is functionally equivalent to the baseline agreement in all pertinent respects. *Id.*

With respect to section 3663, the Public Representative notes that section 3633(a) requires that prices for competitive products cover each product's attributable costs, do not result in a cross-subsidy of competitive products by market dominant products, and allow competitive products as a whole to contribute an appropriate share to institutional costs. *Id.* The Public Representative states that the Postal Service's financial model in this case indicates that the negotiated prices will cover costs and exceed the minimum cost coverage approved in the enabling Governors' Decision No. 10-1. He therefore concludes that the negotiated prices satisfy the requirements of section 3633(a).

## V. COMMISSION ANALYSIS

*Scope and nature of review.* The Commission's responsibilities in this case are to ensure that (1) the instant Agreement is functionally equivalent to the baseline agreement (Docket No. CP2010-36 agreement); and (2) the new Agreement satisfies the requirements of 39 U.S.C. 3633 and applicable Commission rules (39 CFR 3015.5 and 3015.7).

*Functional equivalence.* The Commission has reviewed the Postal Service's reasons for concluding that the instant Agreement shares similar cost and market characteristics with the baseline agreement, meets the pricing formula and classification established in Governors' Decision No. 10-1, and comports with 39 U.S.C. 3633 and the Commission's rules. It also has considered the Public Representative's views. It agrees that the instant Agreement and the baseline agreement are substantially similar, and that any differences do not undermine a finding of functional equivalency. The Commission therefore concludes that the instant Agreement may be included in the GREP Contracts 1 product.

*Cost considerations.* The financial data the Postal Service has filed support the conclusion that the prices for the instant Agreement satisfy the three requirements in 39 U.S.C. 3633(a), as addressed below.

The Commission has reviewed the Notice, supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the instant Agreement should cover its attributable costs, as required by 39 U.S.C. 3633(a)(2). It finds that the Agreement should not result in competitive products being subsidized by market dominant products as prohibited by 39 U.S.C. 3633(a)(1). It also finds the Agreement should have a positive effect on competitive products' contribution to institutional costs, consistent with 39 U.S.C. 3633(a)(3). Accordingly, a preliminary review of the instant Agreement indicates that it is consistent with the provisions applicable to rates for competitive products. The Commission therefore finds that the instant Agreement is appropriately included within the GREP Contracts 1 product.

*Follow-up submissions.* In Order No. 755, the Commission directed the Postal Service to file costs, volumes, and revenues disaggregated by weight and country group associated with the current (Docket No. CP2011-65) agreement, including any penalties paid, within 30 days of the termination of the agreement.

With respect to the instant Agreement, the Postal Service shall promptly notify the Commission of the effective date. If the instant Agreement terminates earlier than scheduled, the Postal Service shall inform the Commission of this development prior to the new termination date. In addition, within 30 days of the expiration of the instant Agreement, the Postal Service shall file costs, volumes and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

V. ORDERING PARAGRAPHS

*It is ordered:*

1. The Agreement filed in Docket No. CP2012-14 is included within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product on the competitive product list.
2. The Postal Service shall promptly notify the Commission of the effective date of the instant Agreement.
3. The Postal Service shall notify the Commission if the instant Agreement terminates prior to the scheduled termination date in accordance with the terms set out in the body of this Order.
4. Within 30 days of the expiration of the instant Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

By the Commission.

Ruth Ann Abrams  
Acting Secretary